COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: APRIL 27, 2006

FILE NO.:

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: RICHARD W. SHAW, CAPTAIN
TEMPLE STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING, JANUARY 4, 2005, REVIEW #SH2136291**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on January 4, 2005.

The Committee met on April 27, 2006 and consisted of Commanders Kenneth Brazile (Commander of the Department), Eric Smith (Leadership and Training Division) and Cecil Rhambo (FOR I). The Committee determined the use of force by Deputy Alan Bash #[redacted] Deputy Herbert Howland #[redacted] Deputy Robert Chivas #[redacted] Deputy Janet Bartholomew #[redacted] Deputy Douglas Jewett #[redacted] and Deputy Andrew Leos #[redacted] was within Department policy.

The committee directed the unit commander to send Deputy Bash to Laser Village training.

Please advise the deputies of this finding.

JGJ:MAH:mh

TABLE OF CONTENTS

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 01-04-05	Bureau/Station/Facility: Temple Station	Admin. Invest.? ☐	Hit? ☒

URN: 005-00415-0572-013	Date: 01-04-05 Time: 1320
City or Station: Temple Station	Nature of Incident: DEPUTY INVOLVED HIT SHOOTING
Location: [redacted] Darlington Avenue South San Gabriel	

Location Type (*circle one or more*):
Backyard (circled), Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, Street, Other: ______

Lighting (*circle only one*):
Darkness, **Daylight** (circled), Other, Street Lights

Weather (*circle only one*):
Clear, **Cloudy** (circled), Fog, Rain

Distance: 25 to 40 FEET

Incident Type (*circle one or more*):
Accidental, **Armed Person** (circled), Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Other: ______

Initiated by (*circle only one*):
Arrest Warrant, Call, Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*):
Detective, Inmate Transport, Other, Routine Patrol

Total # of Shots Fired by Deputy: 53

Total # of Shots Fired by Suspect: 2

Aero Unit? ☒ Canine Unit? ☐

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	SANDOR	ANDREW	M.	EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty
[redacted]	TAWDI	WALDI	W.	EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty
[redacted]	ALSKY	TIM	R.	EM PM **Day** (circled)	**Regular** (circled) Overtime Off Duty

Last Name	First Name	M.I.	Street Address	City	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]		[redacted]				

Employee #	Last Name	First Name	M.I.	(*circle one or more*)	
[redacted]	MADDALENA	RICHARD	S.	**On Duty** (circled), Present during shooting	Witness to shooting, Involved in shooting
				On Duty (circled), Present during shooting	Witness to shooting, Involved in shooting

Employee #	Last Name	First Name	M.I.
[redacted]	ALLEN	DUANE	W.
[redacted]	BROWN	DAVID	

PSTD Use Only
SH # 2136219

See Reverse

Officer Involved Shooting

URN: 005-00415-0572-013

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
01-04-05	1500	03-07-06	

Employee #	Last Name	First Name	M.I
[redacted]	Morejon	Elier	
[redacted]	Key	Gregory	L.
[redacted]	Seno	Bennett	W.

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	FH	SW	35			NN	
E#1	S#1	FH	BR	9	Y	Y	DH	IN
S#1	E#2	FH	SW	35			NN	
E#2	S#1	FR	CO	23	Y	Y	DH	IN
S#1	E#3	FH	SW	35			NN	
E#3	S#1	FH	BR	9	Y	Y	DH	IN
S#1	E#4	FH	SW	35			NN	
E#4	S#1	FH	BR	9	Y	Y	DH	IN
S#1	E#5	FH	SW	35			NN	
E#5	S#1	FH	BR	9	Y	Y	DH	IN
S#1	E#6	FH	SW	35			NN	
E#6	S#1	FS	IT	12	Y	Y	DH	IN

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 005-00415-0572-013

E 1

Employee # [redacted]	Last Name HOWLAND	First Name HERBERT	M.I.
Sex: M Race: W	Rank DEPUTY	Unit Assignment: TEMPLE STATION	Work Assignment (Unit #, Module, etc.): 52M
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 5' 11"	Weight: 203		
Range Qualification Date [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E 2

Employee # [redacted]	Last Name CHIVAS	First Name ROBERT	M.I. J.
Sex: M Race: H	Rank DEPUTY	Unit Assignment: TEMPLE STATION	Work Assignment (Unit #, Module, etc.): 53B1
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☒
Hrs of sleep prior to shooting: 7 TO 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, (Raid Jacket w/ Vest), Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: [redacted] Height: 6' 2"	Weight: 220		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? ☒ Number of Prior Shootings: 1
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E 3

Employee # [redacted]	Last Name BARTHOLOMEW	First Name JANET	M.I. L.
Sex: F Race: W	Rank DEPUTY	Unit Assignment: TEMPLE STATION	Work Assignment (Unit #, Module, etc.): 53B1
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☒
Hrs of sleep prior to shooting: 7 1/2	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, (Raid Jacket w/ Vest), Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: [redacted] Height: 5' 6"	Weight: 160		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

Officer Involved Shooting
Involved Employee Information

URN: 005-00415-0572-013

E 4

Employee # [redacted]	Last Name LEOS	First Name ANDREW	M.I. J.
Sex: M Race: H	Rank DEPUTY	Unit Assignment: TEMPLE STATION	Work Assignment (Unit #, Module, etc.): TRAINING COORDINATOR
ShiftTime (*circle only one*): EM PM **(Day)**	ShiftType (*circle only one*): **(Regular)** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☒
Hrs of sleep prior to shooting: 8 +	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **(Uniform w/ Vest)**	Other Factors:
Age: [redacted]	Height: 5' 9" Weight: 195		
Range Qualification Date: [redacted]	PPC Qualification Date [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? ☒ Number of Prior Shootings: 1
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E 5

Employee # [redacted]	Last Name BASH	First Name ALAN	M.I.
Sex: M Race: W	Rank DEPUTY	Unit Assignment: TEMPLE STATION	Work Assignment (Unit #, Module, etc.): 55T1
ShiftTime (*circle only one*): EM PM **(Day)**	ShiftType (*circle only one*): **(Regular)** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **(Uniform w/ Vest)**	Other Factors:
Age: [redacted]	Height: 6' 2" Weight: 257		
Range Qualification Date [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? ☒ Number of Prior Shootings: 1
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E 6

Employee # [redacted]	Last Name JEWETT	First Name DOUGLAS	M.I. F.
Sex: M Race: W	Rank DEPUTY	Unit Assignment: TEMPLE STATION	Work Assignment (Unit #, Module, etc.): 53B1
ShiftTime (*circle only one*): EM PM **(Day)**	ShiftType (*circle only one*): **(Regular)** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, **(Raid Jacket w/ Vest)**, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: [redacted]	Height: 6' 2" Weight: 180		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp #	Last Name	First Name	M.I.

See Other Side

Officer Involved Shooting
Suspect Information

URN: 005-00415-0572-013

S 1

Last Name: RIVERA	First Name: CRUZ	M.I.
AKA Last Name	First Name	M.I.

Sex: M Race: H	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #:	Driver's License #: [redacted]
Age: 48 D.O.B. 02-15-56	Height: 5' 8" Weight: 160	FBI #: [redacted]	CII #: [redacted]
Booking #: NONE	Primary Charge: NONE -DECEASED	Secondary Charge:	
Coroner Case? ☒	Coroner Case #: 2005-00115	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☒	Apprehended? ☒	Mental Illness? ☒	Criminal History? [redacted]
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Last Name [redacted]	First Name [redacted]		M.I.
Street Address [redacted]	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY• Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

RICHARD D. DOYLE • Director

August 11, 2005

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbaker Road
Commerce, California 90040

In Re: J.S.I.D. File #: 05-0010
L.A.S.D. File #: 005-00145-0572-013

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 4, 2005 fatal shooting of Cruz Rivera by Los Angeles County Sheriff's Deputies Alan Bash, Herbert Howland, Robert Chivas, Janet Bartholomew, Douglas Jewett, and Andrew Leos. We have concluded that the deputies acted reasonably and lawfully in self-defense and the defense of others during this incident.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department (LASD), Homicide Bureau, and submitted to this office on June 30, 2005 by Lieutenant Al Grotefend and Detective Robert Harris. The District Attorney's Command Center was notified of this incident and Deputy District Attorney William H. Johnson and District Attorney Senior Investigator [redacted] immediately responded to the scene. They were given a briefing and a walk-through of the scene by investigators. No compelled statements were considered as part of this analysis.

FACTUAL ANALYSIS

In the late morning hours of January 4, 2005, deputies responded to a "man firing a gun" call at [redacted] Darlington Avenue, Rosemead. Cruz Rivera's [redacted] told deputies her [redacted] suffered from bi-polar disorder, had a gun, and was shooting it. Deputies found Rivera armed with a .357 magnum revolver, a spear, a 6" fixed bladed knife, and a dagger. Rivera left the residence in his truck and tried to leave the neighborhood, but was unsuccessful due to the deputies' containment of the area. Rivera refused deputies' commands to exit the truck and put his hands over his head. He eventually drove back to his residence, went into his house, and then entered his backyard. Rivera ignored the deputies' commands to drop his weapons. He made slashing motions with the spear at the deputies and fired his revolver at them. Deputies returned fire fatally wounding Cruz.

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
WEBSITE: http://da.co.la.ca.us

Residents of the neighborhood saw Rivera driving recklessly and brandishing the revolver out of the driver's side window of his truck. They also saw him firing rounds and heard LASD deputies order him to drop his weapons. One resident, [redacted] had a brief conversation with Rivera wherein Rivera expressed his intention to kill the responding deputies.

Deputy Medical Examiner Louis A. Pena, M.D., conducted an autopsy on the body of Cruz Rivera on January 6, 2005. He ascribed the cause of death to be multiple gunshot wounds. Toxicological reports show the presence of marijuana in Rivera's system at the time of the incident.

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming such right that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. *People v. Williams, (1977) 75 Cal.App. 3d 731.* In protecting oneself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person in the same or similar circumstances to be necessary to prevent the injury which appears to be imminent. *California Jury Instructions—Criminal (CALJIC), 5.30 AND 5.32.*

Actual danger is not necessary to justify the use of deadly force in self-defense or the defense of others. If one is confronted by the appearance of danger, which one believes would result in great bodily injury or death, and a reasonable person in the same position would so believe, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. *People v. Toledo, (1948) 85 Cal.App. 2d 577.*

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. *Graham v. Conner, (1989) 490 U.S. 386.*

When peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. *People v. Collins, (1961) 189 Cal.App. 2d 575.*

On January 4, 2005, Cruz Rivera was armed with a revolver, a spear, a 6" inch fixed-bladed knife, and a dagger. He was seen by several witnesses firing the revolver in the neighborhood before deputies arrived. He then attempted to elude deputies by leaving the containment area in his truck. He drove the vehicle recklessly and brandished his revolver outside the driver's side door window. When Rivera returned to his residence, he told [redacted] of his homicidal intent to kill the deputies. He refused to obey deputies' commands to drop his weapons and, once in his backyard, he started a gun battle with deputies by firing his revolver at

them. Rivera placed the deputies and residents of the area in imminent danger of great bodily injury and death. The deputies returned fire to protect themselves and others in the neighborhood.

We find the deputies' use of deadly force was reasonable and necessary, and that they acted lawfully in self-defense and the defense of others. Therefore, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By *William H. Johnson*

WILLIAM H. JOHNSON
Deputy District Attorney
(213) 974-5089

c: Deputy Alan Bash, #[redacted]
Deputy Herbert Howland, #[redacted]
Deputy Robert Chivas, #[redacted]
Deputy Janet Bartholomew, #[redacted]
Deputy Douglas Jewett, #[redacted]
Deputy Andrew Leos, #[redacted]